FISH & RICHARDSON P.C.

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number: 07844-0558US1

	Application Number 10/526,287	Filed March 1, 2005
	First Named Inventor Gregg D. Wilensky	
	Art Unit 2167	Examiner Alexandria Y. Bromell

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
    Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
    See 37 CFR 3.71. Statement under 37 CFR 3.73(b)
    is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record 43,352
                        (Reg. No.)

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August 13, 2010
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below'.

☒ Total of no. forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant	: Gregg D. Wilensky	Art Unit	: 2167
Serial No.	: 10/526,287	Examiner	: Alexandria Y. Bromell
Filed	: March 1, 2005	Conf. No.	: 6269
Title	: REDUCTION OF SEARCH AMBIGUITY WITH MULTIPLE MEDIA REFERENCES		

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

The current rejections should be reversed because the Examiner has misunderstood at least one aspect of the present claims.

The Examiner fails to read the claims in light of the specification, as is required. The following passage from the specification would have been helpful in interpreting the claims:

> The use of **a** reference object to search a collection of media objects is ambiguous, at least in part, because the features of interest in the reference object are often ill-defined or inappropriately ranked in terms of their importance for the search. ...
> By using **multiple** references to characterize and refine search criteria, the ambiguity that is inherent in using a reference object to define the search criteria can be partially or wholly resolved.

Specification, page 8, lines 4-14.[1] This passage says that the ambiguity of using "a" reference object can be partially or wholly resolved by using "multiple" references. Moreover, the specification then says that a composite reference is created by "finding **commonalities** among or differences between the selected reference objects." Spec. 8:15-18.

At least the above description, all of which occurs on the very first page of the detailed description in this patent application, should have been considered when the Examiner interpreted the claims. Doing so would have aided the proper understanding of the claim phrase "color, texture and shape features that are common to the reference image and at least one other reference image" in independent claim 60, and of similar language in the other independent

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[1] Emphasis is added unless otherwise noted.

claims. The above claim phrase specifies what is characterized by the "image parameters" calculated in claim 60. That is, the image parameters must characterize those color, texture and shape features "that are **common** to the reference image and at least one other reference image."

The Examiner's reading of the phrase "color, texture and shape features that are common to …" fails to take into account that creating a composite reference image from multiple references can resolve the ambiguity associated with single-reference searching. *See* Spec. 8:12-14.[2] The Examiner's interpretation of the above claim phrase is therefore incorrect.

The above explains why the Examiner believes that Matković's section 3 is relevant in this regard. There, Matković states that a descriptor is calculated by placing rectangles in an image and computing the average color for each rectangle. *See* Matković, section 3, ln. 7-10. This is done for "the query image" (note the singular), and for "target images" (i.e., those images that Matković searches among)[3], and the descriptor for the query image is then compared with the descriptors for the target images to find any matching image. *Id.* ln. 1-3. However, Matković does not use "common" color, texture and shape features in calculating the descriptor.

In conclusion, and to illustrate the misunderstanding discussed above, Applicant will briefly address the Examiner's various assertions made on the last page of the advisory action:

Examiner: "[T]he query image is made up of descriptors …"
Response: Matković does not teach or suggest that the query image is "made up of" descriptors. Rather, Matković creates one descriptor for the query image. *See* Matković, 3:1-3.

Examiner: "… descriptors, or pieces of images to make one image"
Response: Matković does not teach or suggest that "pieces of images" are used to "make one image."

Examiner: "Malkovic's [sic] image may be made up of other images"
Response: Matković does not teach or suggest that the query image is "made up of other images."

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[2] Indeed, the title of the present patent application is "Reduction Of Search Ambiguity With Multiple Media References."

[3] In the final office action, the Examiner had relied on Matković's target images as allegedly corresponding to Applicant's reference images. After Applicant's response pointed out this mistake, the Examiner now refers to Matković's "composite image" instead, an expression that is not used anywhere in Matković.

Examiner: "[A] sketch may be loaded into the system to combine images ..."
Response: Matković does not teach or suggest that the sketch loaded into the system is used "to combine images." Rather, the sketch "supplies a query image to the system."

Examiner: "Malkovic's [sic] composite image may be made up of other images ..."
Response: Matković does not teach or suggest a "composite image," or any other image that is "made up of other images."

Examiner: "[S]ize and color depth, which is equivalent to texture ..."
Response: The claim recites both "color" and "texture," so these terms do not have the same meaning. Image size (e.g., 128x128 pixels, as Matković mentions) is not equivalent to texture: Images of the same size can have entirely different textures.

Examiner: "Malkovic [sic] teaches shape features that are common to multiple references."
Response: Matković uses rectangles to create descriptors for the query image and each of the target images. Matković does not teach or suggest that any feature must be "common" to more than one of the target images.

The rejections of all claims should be reversed.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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